

EXAMPLE: ASPHALT PAVING—CURRENT PRICE \$3.38 PER SQUARE YARD—Continued

DBA craft	New WD	Hourly rate paid	Diff.	Actual hrs.	Actual units (sq. yard)	Increase/ sq. yard
Total increase per square yard						* \$.29
* Note: Adjustment for labor rate increases or decreases may be accompanied by social security and unemployment taxes and workers' compensation insurance.						
Current unit price (per square yard) ...	\$3.38					
Add DBA price adj.	+.29					
New unit price (per square yard)	\$3.67					

(End of clause)

[66 FR 53482, Oct. 22, 2001]

52.222-33 Notice of Requirement for Project Labor Agreement.

As prescribed in 22.505(a)(1), insert the following provision:

NOTICE OF REQUIREMENT FOR PROJECT LABOR AGREEMENT (MAY 2010)

(a) *Definitions.* "Labor organization" and "project labor agreement," as used in this provision, are defined in the clause of this solicitation entitled Project Labor Agreement.

(b) Consistent with applicable law, the offeror shall negotiate a project labor agreement with one or more labor organizations for the term of the resulting construction contract.

(c) Consistent with applicable law, the project labor agreement reached pursuant to this provision shall—

(1) Bind the offeror and all subcontractors engaged in construction on the construction project to comply with the project labor agreement;

(2) Allow the offeror and all subcontractors to compete for contracts and subcontracts without regard to whether they are otherwise parties to collective bargaining agreements;

(3) Contain guarantees against strikes, lockouts, and similar job disruptions;

(4) Set forth effective, prompt, and mutually binding procedures for resolving labor disputes arising during the term of the project labor agreement;

(5) Provide other mechanisms for labor-management cooperation on matters of mutual interest and concern, including productivity, quality of work, safety, and health; and

(6) Fully conform to all statutes, regulations, Executive orders, and agency requirements.

(d) Any project labor agreement reached pursuant to this provision does not change the terms of this contract or provide for any price adjustment by the Government.

(e) The offeror shall submit to the Contracting Officer a copy of the project labor agreement with its offer.

(End of provision)

Alternate I (MAY 2010) As prescribed in 22.505(a)(1), substitute the following paragraphs (b) and (e) for paragraphs (b) and (e) of the basic clause.

(b) The apparent successful offeror shall negotiate a project labor agreement with one or more labor organizations for the term of the resulting construction contract.

(e) The apparent successful offeror shall submit to the Contracting Officer a copy of the project labor agreement prior to contract award.

Alternate II (MAY 2010). As prescribed in 22.505(a)(2), substitute the following paragraph (b) in lieu of paragraphs (b) through (e) of the basic clause:

(b) Consistent with applicable law, if awarded the contract, the offeror shall negotiate a project labor agreement with one or more labor organizations for the term of the resulting construction contract.

[75 FR 19178, Apr. 13, 2010]

52.222-34 Project Labor Agreement.

As prescribed in 22.505(b)(1), insert the following clause:

Project Labor Agreement (MAY 2010)

(a) *Definitions.* As used in this clause—

Labor organization means a labor organization as defined in 29 U.S.C. 152(5).

Project labor agreement means a pre-hire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in 29 U.S.C. 158(f).

(b) The Contractor shall maintain in a current status throughout the life of the contract the project labor agreement entered into prior to the award of this contract in accordance with solicitation provision 52.222-33, Notice of Requirement for Project Labor Agreement.

(c) *Subcontracts.* The Contractor shall include the substance of this clause, including

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this paragraph (c), in all subcontracts with subcontractors engaged in construction on the construction project.

(End of clause)

Alternate 1 (MAY 2010). As prescribed in 22.505(b)(2), substitute the following paragraphs (b) through (f) for paragraphs (b) and (c) of the basic clause:

(b) Consistent with applicable law, the Contractor shall negotiate a project labor agreement with one or more labor organizations for the term of this construction contract. The Contractor shall submit an executed copy of the project labor agreement to the Contracting Officer.

(c) Consistent with applicable law, the project labor agreement reached pursuant to this clause shall—

(1) Bind the Contractor and all subcontractors engaged in construction on the construction project to comply with the project labor agreement;

(2) Allow the Contractor and all subcontractors to compete for contracts and subcontracts without regard to whether they are otherwise parties to collective bargaining agreements;

(3) Contain guarantees against strikes, lockouts, and similar job disruptions;

(4) Set forth effective, prompt, and mutually binding procedures for resolving labor disputes arising during the project labor agreement;

(5) Provide other mechanisms for labor-management cooperation on matters of mutual interest and concern, including productivity, quality of work, safety, and health; and

(6) Fully conform to all statutes, regulations, Executive orders, and agency requirements.

(d) Any project labor agreement reached pursuant to this clause does not change the terms of this contract or provide for any price adjustment by the Government.

(e) The Contractor shall maintain in a current status throughout the life of the contract the project labor agreement entered into pursuant to this clause.

(f) *Subcontracts*. The Contractor shall require subcontractors engaged in construction on the construction project to agree to any project labor agreement negotiated by the prime contractor pursuant to this clause, and shall include the substance of paragraphs (d) through (f) of this clause in all subcontracts with subcontractors engaged in construction on the construction project.

[75 FR 19178, Apr. 13, 2010, as amended at 75 FR 34291, June 16, 2010]

48 CFR Ch. 1 (10-1-12 Edition)**52.222-35 Equal Opportunity for Veterans.**

As prescribed in 22.1310(a)(1), insert the following clause:

EQUAL OPPORTUNITY FOR VETERANS (SEP 2010)

(a) *Definitions*. As used in this clause—

All employment openings means all positions except executive and senior management, those positions that will be filled from within the Contractor's organization, and positions lasting 3 days or less. This term includes full-time employment, temporary employment of more than 3 days duration, and part-time employment.

Armed Forces service medal veteran means any veteran who, while serving on active duty in the U.S. military, ground, naval, or air service, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order 12985 (61 FR 1209).

Disabled veteran means—

(1) A veteran of the U.S. military, ground, naval, or air service, who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary of Veterans Affairs; or

(2) A person who was discharged or released from active duty because of a service-connected disability.

Executive and senior management means—(1) Any employee—

(i) Compensated on a salary basis at a rate of not less than \$455 per week (or \$380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities;

(ii) Whose primary duty consists of the management of the enterprise in which the individual is employed or of a customarily recognized department or subdivision thereof;

(iii) Who customarily and regularly directs the work of two or more other employees; and

(iv) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; or

(2) Any employee who owns at least a bona fide 20-percent equity interest in the enterprise in which the employee is employed, regardless of whether the business is a corporate or other type of organization, and who is actively engaged in its management.

Other protected veteran means a veteran who served on active duty in the U.S. military, ground, naval, or air service, during a war or in a campaign or expedition for which a campaign badge has been authorized under